

IN THE MATTER OF KELLY, BANKRUPT.

District Court, D. Kentucky.

June, 1880.

1. BANKRUPTCY—PETITION FOR
DISCHARGE—FAILURE TO PROSECUTE.

In Bankruptcy.

BARR, D. J. In this case Caleb Kelly filed his petition, to be adjudged a bankrupt, on the second of May, 1878, and was so adjudged on the tenth of May, 1878.

He reported some encumbered real estate and a little personal property, but all seems to have been set apart to him under the exemption laws.

The bankrupt filed his petition for a discharge February 15, 1879, and at the meeting some of his creditors opposed his discharge, and filed grounds why the discharge should not be granted. No further action seems to have been taken by the bankrupt. Berry, Jones & Hiter, creditors, who had proven their claims, filed a petition in this court October 8, 1879, asking to be allowed to pursue their legal remedies in the state courts against the bankrupt. This court, on an *ex parte* hearing of said petition, declined to enter such an order, but directed a rule to be issued against the bankrupt, returnable July 6, 1880, to show cause, if any he had, why he did not prosecute his cause and ask for his discharge.

The rule has been returned executed, and still the bankrupt has made no response, nor has he taken any further steps in his cause. I therefore direct the order to be entered:

In re Caleb Kelly, Bankrupt.

The bankrupt having failed to prosecute his cause with diligence, and failed to show cause why he does not prosecute 220 it and ask a discharge, it is adjudged that there has been unreasonable delay upon the part of the bankrupt in presenting his cause and asking

for a discharge, and upon motion of Jones, Berry, and other creditors, it is now ordered that said creditors, and all others who have proven their debts against said bankrupt, have leave to prosecute any and all suits in law or equity they or either of them could have done had said Kelly never been adjudged a bankrupt. It further is ordered that said Jones and Berry, petitioning creditors herein, recover of said Caleb Kelly their costs expended herein, and may have execution therefore.

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